



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

FEB 05 2015

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Dan Becker  
Becker Iron and Metal  
1310 Broadway  
Venice, Illinois 62090

Dear Mr. Becker:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket no. CAA-05-2015-0017. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on FEB 05 2015.

Pursuant to paragraph 25 of the CAFO, Becker Iron and Metal must pay the civil penalty of \$14,871 within 30 days of the filing date. Your check must display the docket number CAA-05-2015-0017.

Please direct any questions regarding this case to Louise Gross, Associate Regional Counsel at (312) 886-6844.

Sincerely,

A handwritten signature in black ink, appearing to read "N. Frank", is written over the typed name "Nathan A. Frank".

Nathan A. Frank, Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

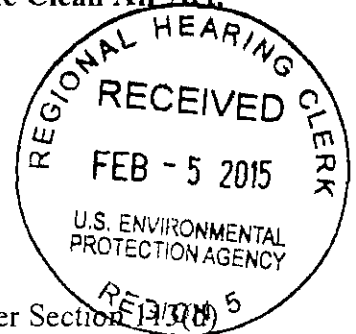
cc: Ann Coyle, Regional Judicial Officer/C-14J  
Regional Hearing Clerk/E-19J  
Louise Gross/C-14J  
Eric Jones, Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

|                              |   |                                                   |
|------------------------------|---|---------------------------------------------------|
| <b>In the Matter of:</b>     | ) | <b>Docket No.</b> CAA-05-2015-0017                |
|                              | ) |                                                   |
| <b>Becker Iron and Metal</b> | ) | <b>Proceeding to Assess a Civil Penalty</b>       |
| <b>Venice, Illinois,</b>     | ) | <b>Under Section 113(d) of the Clean Air Act,</b> |
|                              | ) | <b>42 U.S.C. § 7413(d)</b>                        |
| <b>Respondent.</b>           | ) |                                                   |
| _____                        | ) |                                                   |

**Consent Agreement and Final Order**

**Preliminary Statement**



1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Becker Iron and Metal (Becker), a corporation doing business in Illinois.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Becker consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

**Jurisdiction and Waiver of Right to Hearing**

7. Becker admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Becker waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

**Statutory and Regulatory Background**

9. Subchapter VI of the Act, 42 U.S.C. § 7671, *et seq.*, provides for the protection of stratospheric ozone. Section 608(b) of the Act, 42 U.S.C. § 7671g(b) provides EPA with the authority to regulate the safe disposal of class I and II substances. Class I and II substances include refrigerants containing chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs). EPA promulgated such regulations covering the safe disposal of CFCs and HCFCs from small appliances and motor vehicle air conditioners at 58 Fed. Reg. 28660 (May 14, 1993). These regulations for protection of the stratospheric ozone, recycling and emissions reduction are found in 40 C.F.R. Part 82, Subpart F.

10. Effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers) of small appliances and motor vehicle air conditioners (MVACs) must either recover the refrigerant in accordance with specific procedures or verify with signed statements that the refrigerant was properly recovered prior to receipt of the small appliance or MVAC. See 40 C.F.R. § 82.156(f). If verification statements are used then the scrap recycler must notify the suppliers of the small appliance or MVAC of the need to

properly recover the refrigerant. See 40 C.F.R. § 82.156(f)(3). The scrap recycler must keep verification statements on-site for a minimum of three years. See 40 C.F.R. § 82.166(i) and (m).

11. EPA's regulations for the protection of the stratospheric ozone, recycling and emissions reduction define a "small appliance" as any appliance that is fully manufactured, charged, and hermetically sealed in a factory with five pounds or less of a class I or class II substance used as a refrigerant, including, but not limited to, refrigerators and freezers (designed for home, commercial, or consumer use), medical or industrial research refrigeration equipment, room air conditioners (including window air conditioners and packaged terminal air heat pumps), dehumidifiers, under the counter ice makers, vending machines, and drinking water coolers. See 40 C.F.R. § 82.152.

12. EPA's regulations for the protection of stratospheric ozone, recycling and emissions reduction define "person" as any individual or legal entity, including an individual or corporation.

13. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for CAA violations that occurred between January 12, 2009, and December 6, 2013, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

14. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

15. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

**Factual Allegations and Alleged Violations**

16. Becker owns and operates a scrap metal recycling facility at 1310 Broadway, Venice, Illinois.

17. Becker is a corporation organized and doing business in Illinois.

18. Becker is a "person," as defined by 40 C.F.R. § 82.152.

19. On August 24, 2012, EPA inspected the facility to assess Becker's compliance with the CAA.

20. During the August 24, 2012 inspection, EPA observed small appliances at the facility.

21. During the August 24, 2012 inspection, EPA was told by Becker representatives that it purchases appliances from members of the public and through corporate accounts, but did not accept appliances that contained refrigerant. Becker had a warning sign posted that stated the same. However, Becker did not require verification statements that meet the requirements of 40 C.F.R. § 82.156(f)(2).

22. Becker is a person who takes the final step in the disposal process of small appliances and is subject to the requirements of 40 C.F.R. Part 82, Subpart F.

23. Becker has accepted small appliances. Becker has not obtained verification statements that met the requirements of 40 C.F.R. §82.156(f)(2) for these small appliances.

### Civil Penalty

24. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$14,871.

25. Within 30 days after the effective date of this CAFO, Becker must pay the \$14,871 civil penalty. Becker must pay the penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, Missouri 63197-9000

For checks sent by express mail (that is, a non-U.S. Postal Service, which will not deliver mail to P.O. Boxes) send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank  
Government Lockbox 979077  
U.S. EPA Fines and Penalties  
1005 Convention Plaza  
Mail Station SL-MO-C2-GL  
St. Louis, Missouri 63101

The check must note Becker's name and docket number of this CAFO.

26. Becker must send a notice of payment that states its name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Louise Gross (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

27. This civil penalty is not deductible for federal tax purposes.

28. If Becker does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

29. Becker must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Becker must pay the United States enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Becker must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

#### **General Provisions**

30. This CAFO resolves only Becker's liability for federal civil penalties for the violations alleged in this CAFO.

31. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

32. This CAFO does not affect Becker's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 30, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

33. Becker certifies that it is complying fully with 40 C.F.R. § 82.156(f).

34. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

35. The terms of this CAFO bind Becker, its successors and assigns.

36. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.


37. Each party agrees to bear its own costs and attorneys' fees in this action.

38. This CAFO constitutes the entire agreement between the parties.



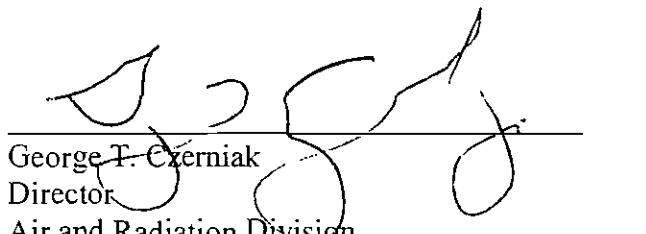
**Becker Iron and Metal, Respondent**

1-21-10  
Date

  
\_\_\_\_\_  
Dan Becker  
Becker Iron and Metal

**United States Environmental Protection Agency, Complainant**

4/30/15  
Date

  
\_\_\_\_\_  
George T. Czerniak  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

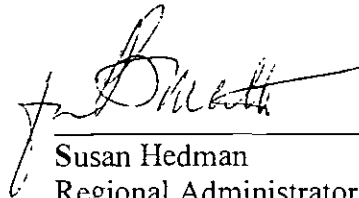
**Consent Agreement and Final Order**  
**In the Matter of: Becker Iron and Metal**  
**Docket No. CAA-05-2015-0017**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

2-4-15



Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**  
**In the Matter of: Becker Iron and Metal**  
**Docket No. CAA-05-2015-0017**

**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2015-0017 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Dan Becker  
Becker Iron and Metal  
1310 Broadway  
Venice, Illinois 62090

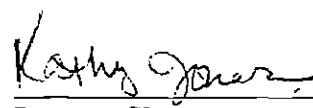
I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle  
Regional Judicial Officer (C-14J)  
U.S. Environmental Protection Agency  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Eric Jones, Manager  
Bureau of Air, Compliance Unit  
Illinois Environmental Protection Agency  
P.O. Box 19506  
Springfield, Illinois 62794

On the 5 day of February 2015.

  
for **Loretta Shaffer**  
**Program Technician**  
**AECAB, PAS**

CERTIFIED MAIL RECEIPT NUMBER:

7011 1150 0000 2640 6042